

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

DIANA MEY, individually
and on behalf of a class of all persons
and entities similarly situated,

Plaintiff,

v.

DIRECTV, LLC; ADAM COX;
AC1 COMMUNICATIONS;
IQ MARKETING 2, CORP., d/b/a
PACIFICOM; and MICHAEL
ASGHARI,

Defendants.

Civil Action No.: 5:17-cv-179

**DECLARATION OF DON KETMAYURA IN SUPPORT OF
DEFENDANT DIRECTV, LLC'S MOTION TO COMPEL ARBITRATION**

I, Don Ketmayura, declare as follows:

1. The following facts are based on my personal knowledge and review of relevant AT&T records. If called upon to testify as a witness, I could and would testify competently as to their truth.

2. I am employed by AT&T Mobility LLC ("AT&T") as a Special Operations Manager. I serve as an intermediary between the Sales and Information Technology departments. I am familiar with the policies and procedures by which AT&T company-owned retail stores receive and document customers' acceptance of their service agreements for postpaid wireless service, including the terms and conditions of those agreements. I am familiar with the software used by AT&T company-owned retail stores' point-of-sale system to process wireless phone transactions.

3. In order to purchase a wireless phone or activate a line of wireless service at an AT&T company-owned retail store and obtain AT&T wireless service via a point-of-sale system, a customer must confirm that he or she accepts AT&T's service agreement, including its Terms of Service. Specifically, a customer generally must mark a box labeled "Accept" and write his or her signature on an electronic signature-capture device. Immediately above the signature line and "Accept" box, the device displays text indicating the customer's consent to AT&T's service agreement.

4. Since September 19, 2010, AT&T has displayed the entire Wireless Customer Agreement then in effect on the signature-capture devices in company-owned retail stores. The device gives customers the option to scroll through the Agreement, print the Agreement in the store, or move ahead to the end of the Agreement at any time by pressing the appropriate button on the device. Attached as Exhibit 1 is a true and correct picture of the device, as it appears to customers, displaying the beginning of the Agreement.

5. To proceed with the transaction, a customer must have scrolled through the entire Agreement or moved ahead to the end, where the following text was displayed on the device: "I have reviewed and agree to the rates, terms, and conditions for the wireless products and services described in the Wireless Customer Agreement (including limitation of liability and arbitration provisions) and the Customer Service Summary, both of which were made available to me prior to my signing." Attached as Exhibit 2 is a true and correct picture of the device, as it appears to customers, displaying this acceptance screen. The customer would then have been required to accept the Agreement in the manner described in Paragraph 3 above in order to purchase a wireless phone or activate a phone for AT&T wireless service.

6. Some transactions in AT&T company-owned retail stores are completed using Apple iPads rather than the electronic signature-capture device described in paragraphs 3 and 4. The process by which customers may review and accept the Agreement on iPads is similar to the process described in paragraphs 3, 4 and 5.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 15th day of February, 2018.

A handwritten signature in black ink, appearing to read 'Don Ketmayura', written over a horizontal line.

Don Ketmayura

EXHIBIT 1



Wireless Customer Agreement

1.0 TERM COMMITMENT, CHARGES, BILLING AND PAYMENT

1.1 What Is The Term Of My Service?

1.2 What Happens If My Service Is Cancelled Or Terminated Before The End Of My Agreement? Is There A Cancellation/Early Termination Fee?

1.3 Can AT&T Change My Terms And Rates?

1.4 What Charges Am I Responsible For? How Much Time Do I Have To Dispute My Bill?

1.5 How Does AT&T Calculate My Bill?

Print

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Go to Acceptance

EXHIBIT 2

SIGN HERE ->

I have reviewed and agree to the rates, terms, and conditions for the wireless products and services described in the Wireless Customer Agreement (including limitation of liability and arbitration provisions) and the Customer Service Summary, both of which were made available to me prior to my signing. If buying an iPhone, I agree that use of the iPhone acts as an acceptance of the Apple and third party terms and conditions included with the iPhone.

I DECLINE

CLEAR

I ACCEPT